

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
Helena Headquarters - 1420 East 6th Avenue
Helena, MT 59620

April 10, 2003

Commission Members Present: Dan Walker, Chairman; Tim Mulligan, Vice-Chairman; John Brenden; John Lane; Mike Murphy.

Fish, Wildlife & Parks Staff: Jeff Hagener, Director; other Department personnel.

Guests: Mary Ellen Schnurr, MOGA; Sanford Shrout, MSHA; Steve Hawkins, MOGA; Don Nickman, PPSA; Tom Smith, Back Country Angler; George Goody, Montana Fly Company; Allen Schollenberger, Lewis & Clark Trout Unlimited; Russ Kipp, MOGA and BBHOGA; Eric Troth, BBHOGA; Bob DesJardins, Beaverhead County Resource Committee; Scott Reynolds, Trout Unlimited; Bob Flynn, BBHOGA; Jim Martin, former commercial fisherman; Richard Greene, commercial fishing applicant; Mike Sedlock, Walleyes Unlimited; John Wilson, MT Trout Unlimited; Michael Marsh, BBHOGA; Ben Yarbrough, Dell; Ray Gross, Dillon; Ray Baenen, Libby; Worth Nixon, Libby; Grover Hedrick, Boulder; Terry Comstock, Eureka; Rick Ripley, Wolf Creek; Don Clark, Libby; Jack Miller, Eureka; Dan Devine, Great Falls; Greg Lilly, Bridger.

Topics of Discussion:

- 1. Opening - Pledge of Allegiance**
- 2. Approval of March 13, 2003 Commission Minutes**
- 3. Approval of Commission Expenses through March 31, 2003**
- 4. Fish, Wildlife & Parks Employee Service Awards**
- 5. Tri-State Meeting and Western Fish & Wildlife Association Meetings**
- 6. Land Proposals - Initial Review**
- 7. 2003 Moose, Sheep & Goat Quotas - Tentative**
- 8. 2004 Moose and Sheep Auction Rules - Tentative**
- 9. 2003 Upland Game Bird Seasons (20 day comment concerns) - Tentative**
- 10. 2003 Lion Seasons and Quotas - Tentative**
- 11. PP&L Montana Petition to Close Cochrane, Ryan and Morony Reservoirs - Final**
- 12. Dave Brown Land Donation for Giant Springs - Final**
- 13. Smith River Permit Reallocation Procedures - Informational**
- 14. Beaverhead / Bighole River Recreation Rule Extension - Final**
- 15. Future Fisheries Special Drought Mitigation Funding Cycle - Final**
- 16. Canyon Ferry Reservoir Commercial Carp Fishing Permit - Final**
- 17. Republican Canal Fish Screen Construction & Maintenance Easement - Informational**
- 18. Variable Priced License Rule Process - Tentative**

1. Opening - Pledge of Allegiance. **Chairman Dan Walker** called the meeting to order at 8:10 a.m. and led the Pledge of Allegiance.

2. Approval of Commission Minutes.

Action: Commissioner Lane moved and Commissioner Brenden seconded the motion to approve the minutes of the March 13, 2003 meeting. Motion carried.

3. Approval of Commission Expenses through March 31, 2003.

Action: Lane moved and Commissioner Mulligan seconded the motion to approve the Commission expenses through March 31, 2003 as presented. Motion carried.

4. Fish, Wildlife & Parks Employee Service Awards. **Director Hagener** read two letters of appreciation relating brief overviews of the many accomplishments of Janet Hess-Herbert, Research Specialist, Information Management for her 23 years of service to FWP, and of Glenn Erickson, Administrator, Field Services Division for his 30 years of service to FWP. **Hagener** presented Hess-Herbert with a Montana Silversmith watch with the FWP bear logo engraved on the band, and Erickson received a Montana Silversmith bolo tie with the FWP bear logo engraved on it.

5. Tri-State and Western Association Meetings. **Hagener** announced that the Tri State Meeting is set for August 18-20 in Ennis. Directors, Commissioners, and staff from Montana, Idaho, and Wyoming are invited to attend.

Hagener also advised that the Western Association of Fish and Wildlife Agencies has scheduled their annual conference for July 17-23 in Port Angeles, Washington. Meetings specifically for Commissioners will be held on the 18th and 19th.

6. Land Proposals - Initial Review. **Don Childress, Administrator, FWP Wildlife Division,** introduced **Ray Mule'** as the new Region 5 Wildlife Manager in Billings, and **Kurt Alt** as the new Region 3 Wildlife Manager.

Ted Powell Ranch Conservation Easement. **Childress** introduced **Harold Wentland, Region 6 Wildlife Manager,** who provided an overview of the proposed Ted Powell Ranch Conservation Easement. The Powell Ranch is located in Blaine County, approximately 40 miles south of Chinook, and near the Ft. Belknap Indian Reservation. Ted Powell approached FWP about establishing an easement on his ranch, which lies in a transition zone between the foothills of the Bears Paw Mountains and the Missouri River Breaks. The land is predominantly sagebrush and native grasses with scattered stands of Ponderosa pine, Douglas fir. Riparian areas provide cottonwood and willow trees as well as undergrowth stands of buffalo berry, chokecherry, snowberry and rose bushes, and cattail marshes.

Powell wants to keep his land for livestock production, but also wants to maintain wildlife habitat. The Powell's have cooperated with FWP on waterfowl habitat improvement projects and have been involved in the Hunting Enhancement Program. Among the wildlife inhabiting this land are mule deer, elk, pronghorns, mountain lions, grouse, pheasants, turkeys, waterfowl, raptors, swift fox, and ferrets and a prairie dog town are on adjacent BLM land. This area could serve as a sage grouse wintering area. **Wentland** said that a change in ownership could lead to farming of this land as adjoining private ground is already being farmed, which would destroy the habitat. **Wentland** also stated that the Powells have been approached regarding subdivision potentials and the creation of a private wildlife preserve. **Childress** said a final proposal to develop an easement will be brought before the commission in 9 - 12 months for approval.

Bighorn Sheep Habitat on Whiskey Ridge in the Missouri River Breaks. **Childress** introduced Darlene Edge, FWP Land Agent, and Tom Stivers, Region 4 Wildlife Biologist, who described the Whiskey Ridge proposal. The land under discussion is 3,360 acres of excellent bighorn sheep habitat located near Winifred on the south side of the Missouri River for sale by two landowners. This area is also good habitat for mule deer, turkey, grouse, pheasants and partridges. This land provides habitat for approximately one quarter of the bighorn sheep in Hunting District 482. **Stivers** said that local concerns are that nonresidents, or public agencies buy the property and remove it from agricultural and wildlife production and close it to public access. It is proposed to negotiate with the landowners to place a conservation easement on the properties and resell the land to a private agricultural producer.

Action: The Commissioners recommended proceeding with these projects.

7. 2003 Moose, Sheep & Goat Quotas - Tentative. **Childress** introduced **Jeff Herbert** of FWP who presented the proposed moose, sheep and goat quotas. **Herbert** said that prior action had been taken at the February meeting to update the tentatives on moose, sheep, and goats so there are not a great deal of changes since that time.

Moose - Herbert said the only proposed changes were in Districts 319, 325 and 341.

District 319-10 -- Antlerless - reduce the number from 6 to 4

District 319-20 -- Antlered Bulls - reduce the number from 5 to 1

District 325-10 -- Antlerless - reduce the number from 6 to 2

District 325-20 -- Antlered Bulls - reduce the number from 6 to 4

District 341-10 -- Antlerless - reduce the number from 5 to 1

District 341-20 -- Antlered Bulls - reduce the number from 6 to 3

Mulligan said he would like to see the antlerless moose quota increase in District 340-10 from 4 to 6.

Action: Mulligan moved to increase the antlerless moose quota in District 340-10 from 4 to 6.

Murphy seconded the motion. Motion carried.

Action: Mulligan moved and Murphy seconded the motion to approve moose quotas as presented with the amendment by Mulligan to increase antlerless moose quota in District 323-10 from 19 to 25. Motion carried.

Bighorn Sheep - Herbert said there are two proposed quota changes in Region 2, two in Region 4, and one in Region 6.

District 216-00 -- Either Sex - reduce the number from 12 to 8

District 250-00 -- Either Sex - reduce the number from 2 to 1

District 422-00 -- Either Sex - reduce the number from 7 to 5

District 482-00 -- Either Sex - increase the number to 8 to 12

District 680-00 -- Either Sex - reduce the number from 15 to 10

Action: Lane moved to accept the Bighorn Sheep tentatives as proposed. Mulligan seconded the motion. Motion carried.

Mountain Goats - Herbert said there were no further proposed changes since the February Commission meeting. At that time it was proposed that District 213-00 be closed and District 270-00 reduced the Either Sex permit from 2 to 1.

*Action: **Murphy** moved and **Lane** seconded the motion to approve the tentative as proposed. Motion carried.*

8. 2004 Moose and Bighorn Sheep License Auction Rules - Tentative. **Herbert** presented the proposed rules for conducting the auctions for bighorn sheep and moose licenses in 2004. The background information and the three options of how to conduct the auctions are similar to last year, and the procedures in soliciting and evaluating proposals are the same as those used in the past. **Hagener** said HB20 authorized the auction of elk tags and mule deer tags, and they will require the same type of procedure. Auction rules will be finalized in June but auctions will be conducted in the fall. When **Brenden** asked if the Commission or the Department decides who conducts the auction, he was informed that the Commission does. **Hagener** said HB20 allows either a raffle or an auction. **Walker** asked if mule deer and elk can be incorporated into this process. **Herbert** said we would have to go out for public comment and he said these rules could be used as templates and structure them that way.

Hagener said HB20 does allow for lottery or auction and since the bill goes into effect in October, elk and mule deer rules could also go into effect at the first auction next winter – tags would be for the 2004 season. **Mulligan** asked why this rule is acted on every year. He asked if there was a way to do an administrative rule or a multiple year rule change? **Herbert** will look into an answer for that.

*Action: **Mulligan** moved to approve the tentative 2004 moose and big horn sheep auction rules. **Lane** seconded the motion. Motion carried.*

*Action: **Walker** moved to propose rules for the deer and elk license auction contingent upon enactment of HB20 and have a fourth option for the lottery. **Brenden** seconded the motion. Motion carried.*

9. 2003 Upland Game Bird Seasons (20 day comment concerns) - Tentative. **Herbert** said the only proposed season change for this year was the opening of pheasant season. The proposed season for this year is Saturday, October 18 – December 15, 2003 for residents, and Monday, October 20 - December 15, 2003 for non-residents.

The only other proposed changes relate to turkeys. Region 7 proposes to make a second tag valid during the fall season in reaction to the series of mild winters. This will make it possible for hunters to take a second bird in the fall, only in Region 7. The total combined bag limit of spring and fall seasons per hunter cannot exceed two turkeys. There currently are two turkey licenses, and individuals can purchase one of each. There is a “spring only” license and a “fall only” license that is also valid in Region 7 during the spring period. By changing the “spring only” license to “spring only also valid in Region 7 for the fall”, this change could be accommodated with the licenses we have right now. The only other change was to change the deadline for fall turkey permit applications for Region 1 and Region 3 from being postmarked by July 1 to being postmarked by August 1 to be eligible for the drawing. **Mulligan** said the change in the language would eliminate taking two turkeys in the spring in Region 7. **Herbert** said right now you can buy a “spring only” license and a “fall only” license, and “fall only” license can be used in the spring in Region 7 so you can use the “spring only” license; changing “spring only” to “also valid in Region 7 for the fall”.

Action: Brenden moved and Murphy seconded the motion to accept the department's recommendation for the change in turkey regulations Motion carried.

Walker asked about the array of dates of seasons and how they are set. **Childress** explained that some dates are fixed. There are two issues relative to dates. One is the opening of general upland bird season and dove seasons, which are tied together. Prior to 1986, the upland bird season opened the first Saturday after Labor Day, then in 1986 authorization was allowed for FWP to move forward with migratory dove season. The language of the statute says that Dove season cannot open earlier than the first opening date of the upland bird season. The first week of September is the real opportunity to hunt doves in Montana, so general upland bird season was moved to open September 1 rather than what had been the Saturday after Labor Day. It has been that way since 1986.

The other date revolves around the opening of pheasant season. In 1992, the Commission adopted a proposal as policy that the opening date for pheasant season would be the first Saturday closest to October 15th, and December 15 became the standard closing date. In 1997, October 15 fell on a Wednesday, so the Commission had to decide whether to go to the Saturday before or the Saturday after the 15th. At that point, there was a divergence of the policy, and they decided to go to October 11th rather than the 18th. The 2003 dates face this same situation. **Childress** cautioned the Commissioners that if sportsmen are granted an extra couple of days one year, they expect them the next year as well.

Childress said the other issue relative to the opening date of pheasants is the resident/non-resident issue. When they went through process of trying to establish whether there was a need for restriction for non-resident bird hunters - which the previous legislature authorized - there was a great deal of discussion regarding a number of issues surrounding the upland bird program. FWP entertained considerable public input on the proposal to restrict non-residents.

Among the issues that came forward regarding the restriction on the number of non-resident bird licenses was the impact on outfitters, the loss of hunting opportunities, as well as economic hardships. The Commission evaluated the concerns and decided there were alternatives such as differential opening dates. This started out as a proposal of 9 days - two weekends were residents only, but the final action amended it back to the first weekend. This has been in place for two years. At the same time that the Commission moved forward with the restriction on the number of non-resident bird license sales, FWP instituted a significant increase in the non-resident bird license fee. At the time this was implemented, FWP was selling nearly 11,000 non-resident bird licenses - last year it was approximately 5,600. A number of factors contributed to the lower numbers, including the cost, bird populations were down, other alternatives, and the two-day restriction on opening for non-residents. The legislation that allowed the Commission to implement the quota cap on non-resident bird license sales sunsetted on January 1, 2003, so now it is back to unrestricted non-resident license sales. The Commission no longer has the authority to set a cap on the number of non-resident bird licenses. A proposal was submitted by FWP to the legislature to provide that same authority to the Commission, but it failed in the Senate.

When FWP went through the process of attempting to establish the quota for non-residents, a number of people spoke to the issue of opening Montana's pheasant season at the same time as other surrounding states.

Hagener said he has appointed an Upland Bird Advisory Council that will be making preliminary recommendations but they won't be done for this year.

Brenden said the Commission set a bad precedent when they adopted the 2 day setback. He feels it should be done on all licenses or none at all. **Brenden** said the small communities rely on hunting for their economy, and two days can make a difference; he would like to eliminate the two day setback. Additionally, he would like to see a consistent opening date for pheasants.

Childress said a concern expressed from landowners is dealing with hunters on several opening days. **Walker** said that by having antelope season begin on the second Sunday of October, it could be as early as October 8th. **Mulligan** asked if there had ever been any discussion regarding pheasant season being set on the 15th of October regardless of day of the week. **Childress** said that it undoubtedly had.

Mary Ellen Schnurr, Chairman of MOGA, said members in eastern Montana would prefer that the season for pheasant season open 1 day before antelope season - October 11. They feel it gives people more hunting opportunity in one trip to eastern Montana. This time of year is normally a three day weekend which would allow youth to participate as well. She said FWP needs to take into consideration Columbus Day weekend, as well as Teachers Convention which is always the 3rd weekend of October. She said it would be great if bird hunters could plan as far ahead as big game hunters, rather than waiting until June to know when bird season opens. **Murphy** said he has received similar comments.

*Action: **Murphy** moved the opening day of pheasant season be the Saturday before the 2nd Sunday of October prior to the opening of antelope season. (11th this year). **Lane** seconded the motion. Motion carried.*

*Action: **Mulligan** moved to put in as an alternative proposal that the Saturday before the 2nd Sunday in October is youth only (12-14 years old and Sunday is general season). **Walker** seconded the motion. Motion carried.*

*Action: **Brenden** moved to remove the 2-day set back on non-resident pheasant hunting. **Lane** seconded the motion. Motion carried with 4 in favor and 1 in opposition.*

*Action: **Walker** moved that the closing day of pheasant season be 65 days from the opening date so it always closes on a Sunday. **Walker** withdrew the motion.*

*Action: **Brenden** moved to open prairie grouse season on the second Saturday of September. **Walker** seconded the motion. Motion carried.*

10. 2003 Lion Seasons and Quotas - Tentative. **Herbert** said the season are valid from December 1, 2003 through April 14, 2004 and hunters may hunt only within the boundaries identified on a hunting map that will be mailed to all permit holders.

Herbert said there are 4 proposed quota changes in Region 1 and 1 permit change.

District 101-02 - reduce any legal lion permits from 5 to 4

District 101 - reduce the quota from 8 to 5 for any legal lion

District 102 - reduce the quota from 10 to 7 for any legal lion

District 103 - reduce the quota from 8 to 6 for any legal lion

District 130 - reduce the quota from 10 to 8 for any legal lion

Herbert introduced **Jim Williams, Region 1 Wildlife Manager**, who said the proposed changes mainly focus on the Salish Mountains which encompass Hunting Districts 101, 102, and 103. He said the majority of the comments received from houndsmen have been from that area. Other areas are also down in number, but the area has had a bad snow year, and he said it's important to keep that in mind. **Williams** said that the local houndsmen and FWP biologists have held meetings throughout the region to discuss what the prey populations are doing. He stated the concerns are from outfitters, and also include urban wildlife concerns.

Don Clark from Libby addressed the Commission. Clark said 2 years ago there was an overkill of lions and an influx of non-resident hunters. He encourages limiting non-residents statewide. He said the tentatives were presented to FWP before the cat hunters met. He said his constituents would like to see the quota in District 104 be reduced to 6, and the quota in District 103 to 4. They only know of a dozen lions in District 103.

Worth Nixon of Libby reiterated the concerns of Clark. He said their chase season indicated no lions were in the area. He said cubs are low in number and that they have a high mortality rate. Nixon stated that a meeting had been held in Libby and lion hunters there recommended no hunting of cats at all. Nixon personally recommended 2 males but the group compromised on 4 either sex. He said hunters are taking small animals, young animals, and are not being fined for taking them. He would like to see FWP change the rules so that a hunter cannot kill a lion under 60 pounds, and render it illegal to kill family groups.

Terry Comstock from Eureka, representing Lincoln and Flathead counties, thanked FWP staff for their help. He thinks quotas should be lowered even more than what the first two men proposed. Comstock said the cats are just not there. Females don't breed until 3 years old and neither do males. Mountain lions are facing pressures more than just hunting, such as wolves killing them. He stated he would like the Commission to lower quotas until the populations can grow.

Steve Hawkins, an outfitter from Eureka, concurred with the others that the number of cats is down and why.

Williams agreed that yes the numbers of mountain lions are down. He cautions that a good snow year would require commitment from locals to abide by any closure. He said HB55 is phenomenal. **Williams** stated he does not want to see the quota go below 4 lions. He realizes houndsmen want to close the season altogether, but he doesn't feel that is appropriate. He said small cats are trophies to some hunters while they are not to others; some hunters cannot tell the difference between males and females; some do not know about the spots on cats. **Murphy** said there are fewer cats in his area too. He wants to see the situation balanced.

***Murphy** moved to accept FWP's recommendations for Region 1 with the exceptions of reducing the quota in HD103 from 8 to 4 rather than from 8 to 6, and to reduce HD104 from 8 to 6. **Lane** seconded the motion. Motion carried.*

*Action: **Murphy** moved to recommend that the non-resident restriction of HB145/55 used in Region 1 be adopted in the other regions. **Walker** amended the motion to propose this restriction for Region 2, and consider it in Regions 3 - 7. **Walker** seconded it. Motion carried.*

Herbert said the proposed quota changes in Region 2 are:

To reduce quota in HD200 and HD201 from 10 to 6 – 3 females and 3 males

To reduce quota in HD204, HD260, and HD261 from 3 to 2 - 0 females and 2 males

To reduce quota in HD210 from 5 to 3 - 1 female and 2 males

To reduce quota in HD211 and HD216 reduce from 6 to 5 - 3 females and 2 males

To reduce quota in HD270 from 3 to 2 - 0 females and 2 males

To increase quota in HD290, HD291 and HD292 from 2 to 3 – 1 female and 1 male and 1 for Garnett study area.

*Action: **Murphy** recommended Region 2 tentatives as proposed. **Mulligan** seconded the motion. Motion carried.*

Herbert said there are no proposed quota changes in Region 3. **Mulligan** said he would like to see HD340 keep the total at 5 but drop the female to 3. **Sanford Shroud**, President of the Montana State Houndsmen Association (MSHA), spoke to the Commission saying that MSHA would like to see quotas lowered in HD312 and 393 from 10 to 8 due to fact the season was not closed last year and probably won't be this year. They would like to see the quotas lowered in HD319 and HD341 from 4 to 3; that used to be part of HD340 and it was only 3 cat area then so there are not enough cats to support this proposal. HD370 and HD380 of the Elkhorns has not closed in 3 years, so they would like to see the quota reduced to 6 or 7. One other point they would like to make is that the lion license does not coincide with hunting season – they are concerned that one hunting license could be used in two seasons as the date laps over.

Grover Hedrick from Boulder commented that in the Elkhorns and Lincoln area he has never seen the cat population so low. The quota has not filled in two years - biologically you cannot take 14 cats out of this area. He wants to see quotas cut back to realistically stabilize the cat population.

Neil Horne of Helena said he has been working with Gale Joslin on HD335, HD343, and HD339 and with Tom Carlson on HD370, HD380, HD390, HD391, and HD392, and he is disappointed there are no tentatives set for the 300 Districts. He said Tom Carlsen is proposing 1 reduction in each district in his area. There is a lack of lions – not a lack of hunters.

Kurt Alt said they have not met with houndsmen, and this is necessary. Alt said the deer population in relation to lion harvest is stable. He has talked with Craig Fager, Region 3 Wildlife Biologist, who agrees with what Mulligan proposed in HD340. He said recommendations for HD370 and HD380 would be to reduce quotas from 14 to 10 - females 4 and males 6, to reduce quotas in HD390, HD391, and HD392 from 15 to 11 total - 5 female and 6 males, and to reduce quotas in HD312 and HD393 from 10 to 8. If deer populations decrease, increases will be requested.

Mulligan said he has concerns over deer populations in HD319 and HD341.

Action: *Mulligan moved to approve the Region 3 tentatives as proposed with the following modifications:*

HD312 and HD393 - reduce total from 10 to 8 - females remain at 4

No changes in HD335, HD339, and HD343

HD340 - total of 5 but reduce females to 3

HD370 and HD380 - reduce total to 10 – females at 4 males at 6

HD390 - total of 11 - females at 5 and males 6

Walker seconded motion. *Motion carried.*

Herbert said there is 1 proposed quota change in Region 4. The proposed change is to reduce the total in the aggregate district comprised of HD422, HD423, HD424, HD425, HD442 from 15 to 12 - 2 females and 10 males. **Action:** *Lane moved and Walker seconded the motion to approve the Region 4 tentatives as proposed by the Department. Motion carried.*

Herbert said there are no changes in Region 5. **Action:** *Walker moved and Brenden seconded the motion to approve the Region 5 recommendations. Motion carried.*

Herbert said there are no changes in Region 6. **Action:** *Brenden moved and Mulligan seconded the motion to approve the Region 6 recommendations. Motion carried.*

Herbert said there are no changes in Region 7. **Action:** *Walker moved and Brenden seconded the motion to approve the Region 7 recommendations. Motion carried.*

Childress clarified that the statue dealing with Commission authority to expand the non resident restriction for lion hunting into regions beyond Region 1 does not take place until October therefore there is no authority to propose a rule as it pertains to that regulation. **Walker** asked if this would be recurring problem, but **Childress** said the Commission would have authority by then.

Childress also made clear regarding the deer and elk auction, that the Commission has no authority until October to develop rules or conduct the auction. **Hagener** said FWP can hold the auction next winter but rule must be finalized after October.

Action: *Walker moved and Brenden seconded the motion to amend the lion regulation to remove the non-resident lion option for Regions 2,3, and 4. Motion carried.*

11. PP&L Montana Petition to close Cochrane, Ryan and Morony Reservoirs on Missouri River - Final Rule. **Jim Kropp, Administrator, Enforcement Division,** reminded the commissioners that this had been brought before them in February as a tentative. Notice was published on February 27, 2003 of the proposed rule adoption to close Cochrane, Ryan and Morony Reservoirs to all boating, sailing, floating, swimming, personal watercraft use, waterfowl hunting due to fluctuation of water levels. Fishing from shore is permitted except in areas where public access is prohibited as marked. Comments were received and responded to.

Action: *It was moved and seconded to approve the rules to close Cochrane, Ryan and Morony Reservoirs to all boating, sailing, floating, swimming, personal watercraft use, waterfowl hunting due to fluctuation of water levels, allowing fishing from shore except in areas where public access is prohibited as marked. Motion carried.*

12. Dave Brown Land Donation for Giant Springs - Final. Tom Reilly, Assistant Administrator, Parks Division explained that this land acquisition was brought before the Commission on December 12, 2002 as a tentative. This acquisition would secure a large in-holding on the south shore of the river within the existing boundaries of Giant Springs Park. In January 2003 an Environmental Assessment was issued. This project involves 9.6 acres within Giant Springs Park. In exchange for this land, FWP has installed a section of piping for the Source Giant Springs (SGS) operation during the hatchery water supply upgrade, and agreed to provide an easement from the spring to the SGS bottling plant across FWP land. The public comment period began January, 2003 and ended on March 7, 2003. A Decision Notice was issued on March 11, 2003. Four comments were received - 3 in support and 1 informational only.

Action: Lane moved and Walker seconded the motion to accept the donation of the 9.6 acre parcel from Source Giant Springs. Motion carried.

13. Smith River Permit Reallocation Procedures - Informational. Walker stated that he would like to see a more user friendly system put into place for reallocating river permits. He said FWP needs to investigate the possibility of working towards limiting multiple success awards to one singular group, and to reduce the number of private permits that are cancelled or changed once the permits are issued. Examples of specific things to look at include "party-launch" applications rather than each potential member of a party applying on their own, a potential waiting period for individuals drawing a private launch permit, possibly a one-to-five year waiting period until an individual could apply again, or possibly a preference system of some type in the drawing for party applications for those individuals who apply for a launch on an individual basis.

Reilly explained that Region 4 has a permit phone system that is staffed from 8:00 a.m. through noon 5 days a week from mid-March through the first part of August so people can cancel permits, combine with other parties, or try to obtain another launch permit.

Reilly said that permits are cancelled for a variety of reason such as weather conditions, low water in the late summer, personal reasons such as weddings, funerals, relocation, family functions, change of plans, etc. He explained that in 1994 and 1995, FWP kept a list of names and if a permit became available, FWP would call the names on the list for that specific date, to let them know of availability. This system didn't work well as people wanting particular dates were unlikely to get a launch because many others also requested that same date - first come first serve. In 1996, the existing system was put in place where people phone in and immediately know if a permit is available; they can check multiple dates, pick up a permit, and the process is done. It has been a flexible system and has worked well for the public. Applicants have 5 days to send their \$25 fee in unless other arrangements are made with FWP. Another benefit to this system is that an actual live person answers the phone.

Reilly explained further that there are a total of 73 outfitter launches available per year on the Smith River, and these are booked years in advance so outfitters can schedule their clients. This system is designed so if an outfitter doesn't have a trip booked within 7 days of their scheduled launch date, that launch date becomes available to the public, offering an additional opportunity for the public to get a launch.

Reilly said that in investigating other permitted river processes, Region 4 has gathered information regarding some rivers in the west whose agencies conduct lottery drawings where they notify successful applicants of their permit, send them a notice, and require the permit fee within a certain time period. If the money is not received within this time period, the permit once again becomes available to the public. Other systems have internet website systems using credit cards to secure dates. This system would be labor intensive, there would be no personal contact, and the website would need to be kept up at all times.

Brenden asked how the landowners along the river feel about access and regulation issues. **Reilly** explained that landowners have some privileges outside this system. Landowners can float any day of the week. If they are within their own boundaries, no boat tag or contact with the department is required. If they go outside their boundaries, they do need the boat tag and a permit. If they are landowners floating with non-immediate family members, they are limited to three launches per day on the river. There are approximately 9 - 12 of these types of floats per year, but there are not many traditional landowners floating the river for recreation purposes. **Brenden** asked how many landowners are along this stretch of river. **Reilly** said there are a total of 85 landowners; this includes the traditional agricultural people as well as cabin owners. The cost of a permit is \$25 for resident for private floater and \$50 for nonresident.

Joe O'Neill, Smith River Manager, said last year of the 707 permits issued, 404 permits were cancelled, and 52 permits combined, which means they turned their permits back and combined with another group. He said there were 530 groups who floated in 2002, so basically all trips were booked from May 1 to July 10, 2002. If someone calls looking for a date, the Region 4 office tells them what is available. The number of cancellations is misleading as permits may be cancelled repeatedly; someone cancels, another person picks up the permit, then they too cancel. He said it is not uncommon for the same permit to be refilled 5 or 6 times in a season. He said the majority of unused public permits are turned back in quickly. The fee is not refundable but is held for credit through that year. If the money is not used, most of it is donated to the Corridor Enhancement Account at the end of the float season.

Reilly said his office would look at this in more detail and draft a couple of proposals before the next float season and before the applications are due in January 2004, to which **Walker** agreed.

14. Beaverhead / Bighole River Recreation Rule Extension - Final. **Chris Hunter, Fisheries Administrator**, introduced **Pat Flowers, Region 3 Supervisor**, who stated there are three choices involved with this rule: One is to adopt the rule as proposed, the second is to not adopt the rule, and the third is to amend the existing rule. The rule was established in response to public demands to address over-crowding and user group conflicts and to protect the resources.

Flowers said the current rules were adopted in February, 2001 after nearly a year and a half of evaluation, at which time they reached a river reach management system. The current rule is scheduled to expire May 1, 2003. He said the River Recreation Advisory Council is presently addressing broader issues related to all river recreation, and the department's advice is to extend these rules in order to give RRAC additional time to come up with recommendations suitable to all rivers, including the Beaverhead and Big Hole Rivers.

The public comment period on the rule commenced on December 26, 2002 and ended March 12, 2003. A series of three public meetings were held in Butte, Sheridan, and Dillon. Fish, Wildlife & Parks received 537 responses – 444 were in support of the rule, 92 were opposed, and 1 was ambiguous.

The rule addresses usage on the Beaverhead from the third Saturday in May through Labor Day from the Clark Canyon Dam to its mouth. The managed area on the Big Hole is also from the third Saturday in May through Labor Day and covers the river from its headwaters to the High Road Fishing Access Site. Both rivers are restricted in a series of designated river reaches, limiting user groups to specific days and areas. The moratorium placed on new outfitter usage is also continued in this rule. The effective dates of this rule are proposed from May 2, 2003 through May 1, 2005.

Flowers said the recommendation of FWP is to adopt the proposed rule for 2 more years to allow the RRAC the opportunity to finish their study and provide guidance. At this time, the rules can be modified to make them consistent in all Montana rivers.

Walker asked for comments from the audience from those in favor of extending the current rule for two more years. Bob DesJardins, Beaverhead County Resource Committee (BCRC) member, spoke in favor of the rule. He stated the BCRC has written a resource plan that goes hand in hand with this rule. Ray Gross, a representative of local sportsmen on the Beaverhead planning committee supports the rule and recommends making them permanent. Gross said the rules are working. Ben Yarborough of Dell also endorses the existing rule saying he feels it is a fair compromise; he continued by saying that local ranchers also support the rule. Steve Lubeck, Big Hole Watershed Committee, supports the rules as they are. He stated that user conflict on the rivers had been spiraling out of control prior to the institution of this rule. Scott Reynolds, Anaconda, Trout Unlimited, stated his organization is in favor of this rule; that FWP should wait and review the statistics of use before making any changes.

Walker asked for comments from the audience from those opposed to extending the current rule for two more years. Russ Kipp, outfitter from Dillon and RRAC member, said the rule passed in 1999 limits outfitters, and he claims river usage is down. Eric Trough from Dillon said he has been involved in this process extensively. He feels the rules have a major impact on the economy of the local businesses. Alan Schallenberger, outfitter and Director of Lewis & Clark Chapter of Trout Unlimited said he had trouble the last two years with this rule. He said these rules trash the area, and that water recreationists went to other rivers without rules and bad publicity. He feels FWP is violating federal rules and that nonresidents are being discriminated against.

Brenden stated that the goal is to make a better outdoor experience, and to keep in mind the importance of local economies affected by this issue. **Walker** added that it was his recollection that this issue was covered in national publications couple of years ago. **Mulligan** said it's a very emotional issue. It is very complex and a multitude of needs must be considered. He said the purpose of this process is to make a decision in the interim to address some of the issues.

Action: Mulligan moved to accept the Beaverhead and Big Hole Rivers Recreation Use Rule Extension as presented. Walker seconded the motion. Motion carried.

15. Future Fisheries Special Drought Mitigation Funding Cycle - Final. **Hunter** said this is the third year a special finding cycle for projects designed to help maintain flow during low water years has been offered. Three applications were received.

The Jefferson River (Jefferson and Madison Counties) proposal is a continuance from last year. Canal Seal was applied to the Jefferson Canal last year, and as a result 6 cfs of additional flow was left in the river, with loss occurring in the first 2.7 miles of the ditch. This proposal is to treat the ditch again paying particular attention to the leakiest portion. Re-application of Canal Seal is expected to result in greater water savings as well as refining the techniques of the product.

The Lake Bathymetry project (Powell and Granite Counties) is requesting funds to develop bathymetric maps of lakes and reservoirs, and while they are valuable management tools, FWP does not agree that generation of these maps qualifies as a fish habitat improvement project. This project is not recommended.

The Sun River (Teton County) project is similar to the Jefferson River project only on a much larger scale. The Sun River base flows into two large ditches to supply water to Fairfield. The Pishkun Supply Canal is 13 miles long and the estimated water loss is 100 cfs, and the Sun River Slope Canal is 27 miles long with estimated losses at 300 cfs. The applicant proposes to use Canal Seal on one mile of each of these canals to determine water conservation. If this is successful, it is the hope that irrigators treat the whole canal and leave the water savings in Gibson Reservoir for release during low flow non-irrigation periods. The committee felt treating only one canal for one mile would be a good test to determine the success.

Hunter said that there is nothing in statute that says if FWP funds these projects that access has to be provided.

*Action: **Mulligan** moved to approve the project proposal recommendations of the Future Fisheries Panel as presented by the Department. **Lane** seconded the motion. Motion carried.*

16. Canyon Ferry Reservoir Commercial Carp Fishing Permit - Final. **Hunter** explained that Richard and Donna Green, Townsend, have applied for a commercial fishing permit to harvest carp. Conditions have now been placed on this permit based upon public comments received. Originally, the fish were to be taken out of state for processing, but they will now be processed in Townsend. Transporting live fish caused concern that fish could somehow spill into other waters and infect them; the state of Washington was concerned with Whirling Disease contamination. Green agreed not to harvest suckers due to their usefulness to walleyes. When asked if this prohibition against harvesting suckers would cause a financial hardship, Green said it would not. The permit is for one year, after which it will be evaluated, and if Green wishes to continue with the endeavor, he will apply for a different type of permit. FWP can revoke permit if undue stress is discovered.

*Action: **Mulligan** moved to approve the Canyon Ferry Reservoir Commercial Carp Permit for one year as applied for by Richard and Donna Green. **Brenden** seconded the motion. Motion carried.*

17. Republican Canal Fish Screen Construction and Maintenance Easement - Informational.

Hunter explained that FWP has received funding through the USFWS Fisheries and Irrigation Mitigation Act and the Future Fisheries Improvement Program to install and maintain a self-cleaning fish screen on Republican Canal, which diverts water from the Bitterroot River. He said the preferred location for the screen is at the head of the canal because of the short distance between the canal and the river where a fish bypass would need to be installed, fewer fish will become stranded in the canal when its shut down, and the by-pass can be installed without trenching a county road. This will require obtaining a construction / maintenance easement from the landowner who is asking for \$8,000 for this easement.

A second option is to place the screen a half mile down the canal where the ditch and the river come close together, but construction problems would be associated with this location, and fish would have a half mile of unscreened water where they would become stranded when the canal is shut down. Installation of a fish bypass would require trenching a paved county road, the road is narrow and winding, and the screen would be subject to vandalism as it is adjacent to a county road.

Hunter noted that 35 % of the monies comes from FRIMA and the rest is from Future Fisheries. Montana is scheduled to get \$500,000, however the 2003 budget has not been appropriated from Congress yet. Commission said to work on it.

Walker questioned the \$8,000 easement price; Hunter said that the cost of placing the bypass at the second location would cost approximately \$15,000 due to trenching the county road.

Action: The Commission recommended proceeding with this project of pursuing the easement on Republican Canal.

18. Variable Priced License Rule Process - Tentative. **Dan Ellison, Administrator, Administration & Finance Division,** introduced **Hank Worsech, Licensing Bureau Chief,** who stated that on November 14, 2002 the Commission moved to adopt two options for rules for variable priced licensing. The rules are scheduled for public hearing on June 4 at FWP Headquarters, and the written comment period ends June 13th.

Option A is the unit method based on a five year unit of time (self inclusive) where FWP will evaluate the number of licenses sold within the five year period of time to determine the number of licenses to be sold in the upcoming license year.

Option B is a rolling, Olympic average method where FWP will evaluate the number of licenses sold over a seven year period, then exclude the years the highest and lowest numbers of licenses were sold.

Mulligan asked what the timeline is to get it out and back and make a decision prior to time we have to make a decision. **Worsech** said the hearing is June 4, the comment period until June 13, and the rule will be reviewed at the July 10 Commission meeting. At this point, if rule is adopted, it will become effective July 31, 2003.

Mulligan asked if FWP and the Commission will have defined which way we want to go before the License Advisory Council meets in August. **Worsech** responded that the rule will be in effect before the Council meets in August. The intent of this rule is to lay out the process the License Advisory Council needs to work with. The new members of the Council have been appointed.

Worsech told the Commission, for informational purposes, that concerns have been addressed about landowners being taken out of the drawing for not providing documentation. This will be addressed in the annual rule this fall.

*Action: **Mulligan** moved to proceed with the "Notice of Proposed Rule" to establish a calculation method for determining the target numbers of B-10 and B11 licenses to be sold each year. **Murphy** seconded. Motion carried.*

Meeting adjourned at 4:30.

Dan Walker, Chairman

M. Jeff Hagener, Director